

combination were present, disclosure regarding limitations appearing in the pending claims is admittedly lacking. In this regard note Section 2.e at page 4 of the Official Action wherein "Official Notice" is taken regarding claim limitations present in the pending claims directed towards specific devices and circuits formed in the compound semiconductor and/or substrate layers. The Office has taken Official Notice that the claimed devices, circuits, etc., were conventional and known to those of ordinary skill in the art. In addition, it is apparently the position of the Office that somehow one of ordinary skill in the art would have known to select the particular claimed device/circuit, etc., and further known where and/or how to incorporate it within the claimed semiconductor structure. However, the only evidence provided in support of the Official Notice taken by the Office is an oblique general reference to prior art cited in other applications. The Official Action also recites the untenable position that Applicant has not asserted in the specification that certain devices, circuits, etc., were unknown. In addition, a passage of the specification reciting the word "typical" has been cited.

All of this is insufficient to support the taking of "Official Notice" as that term is contemplated in the MPEP, and the seasonable challenge to such Notice mentioned therein is hereby provided. In this case, the Notice taken is so general, and so non-specific, that it effectively prevents Applicants from rebutting the present rejection, which critically relies upon the Official Notice to supply particular claim limitations. Because for a proper *prima facie* case of obviousness to be presented the prior art must be considered as a whole, and motivation must exist for the proper combination of elements therein, it is essentially impossible for applicants to discuss whether and how the rejection might or might not meet these requirements. Applicants are entitled to evidence on the issue of Official Notice, and further are entitled to the Examiner's reasoning with regard to specific limitations in the

pending claims. For example, how is Applicant to respond to the rejection of Claim 1 when the only information provided in the Official Action regarding the claimed, e.g., optical source component, and apparently the diffraction grating and optical switch component, is a non-specific and unsupported assertion that such components were known, perhaps in other contexts, in different arrangements and different devices? The reasoning is simply too vague. In fact, the reasoning is so vague, and so lacking in specifics, that it fails to present a *prima facie* case of obviousness supportable by reference to objective evidence. In this regard, Applicants again note their seasonable challenge to the taking of Official Notice, and require supplementation of the record along with a reasoned statement of rejection, or a Notice of Allowance.

Applicant understands that a double patenting rejection has been made over a series of applications. Applicant further appreciates the indication that the requirement will be held in abeyance until allowable subject matter has been indicated by the Examiner, and Applicant thus requests that this requirement be so held. As the Examiner will soon note, several applications in the original bulk-filing have now been abandoned.

Accordingly, Applicant respectfully requests the indication of allowable subject matter such that the double patenting issues can be addressed in this case.

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